

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**TERRY RAY BAIN and  
MARTY HIRAM ELLIS,**

**Defendants.**

**8:08CR210**

## ORDER

This matter is before the court on the Motion to Continue Trial (Doc. 114) filed by defendant, Marty Hiram Ellis. The defendant has filed an affidavit or declaration regarding speedy trial, as required by NECrimR 12.1 and/or 12.3. For good cause shown,

**IT IS ORDERED** that the motion (Doc. 114) is granted, as follows:

1. The jury trial now set for July 21, 2009 is continued to **September 29, 2009**, as to all defendants.

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **July 21, 2009 and September 29, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

**DATED June 25, 2009.**

**BY THE COURT:**

**s/ F.A. Gossett**  
**United States Magistrate Judge**